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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,364	11/27/2006	Guenter Glunk	D4700-00427	3192

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DUANE MORRIS LLP - Philadelphia
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,364	Applicant(s) GLUNK ET AL.	
	Examiner Robert M. Fetsuga	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/05/2006, 10/15/2009, 10/16/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The drawings are objected to because reference numerals "9" (pg. 5 ln. 16) and "24" (pg. 7 ln. 12) are missing.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "shower handset" set forth in claim 7, subject matter set forth in claims 10 and 15, and subject matter set forth in claims 11 and 12, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR

1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The disclosure is objected to because of the following informalities: Page 7, line 15, "6" apparently should be --5--; and page 8, line 4, "31" apparently should be --32--, and line 7, "38" apparently should be --8--. Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "fixed on" feature set forth in claim 2, subject matter set forth in claim 8, subject matter set forth in claims 10 and 15, and subject matter set forth in claims 11 and 12, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

4. Claims 9 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

Art Unit: 3751

out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is unclear as to the relationship between the "side shower head" on line 3 thereof, and the "shower head" on line 9 of claim 1. Claim 15 is similarly indefinite.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Horntrich (DE 9001977).

The Horntrich reference discloses the features recited, as set forth in the search report dated January 06, 2005 and filed with the Information Disclosure Statement on December 05, 2006 in the instant application.

7. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Tournier (FR 2651814).

The Tournier reference discloses the features recited, as set forth in the search report dated January 06, 2005 and filed with the Information Disclosure Statement on December 05, 2006 in the instant application.

8. Claims 1-4, 6, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Malasorti (WO 03/066975).

The Malasorti reference discloses a shower head arrangement comprising: a flat profile 9; a fitting 2; a shower head 3 (Fig. 7); a concealed box 13; and a box fixing 12, as claimed.

9. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malasorti.

Re claim 10, it would have been obvious to duplicate the teachings found in the Malasorti disclosure and associate a second fitting with the shower head arrangement. Duplication of parts has been held patentably insignificant absent a showing of a new or unexpected result. See MPEP 2144.04(VI)(B).

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malasorti and Wilson.

Although the concealed box of the Malasorti shower head arrangement is not smaller than the profile, as claimed, attention is directed to the Wilson reference which discloses an

Art Unit: 3751

analogous shower head arrangement which further includes a concealed box D that is smaller than a profile D'. Therefore, in consideration of Wilson, it would have been obvious to one of ordinary skill in the shower head arrangement art to associate a smaller size with the Malasorti concealed box in order to conceal the recess receiving the box.

11. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malasorti and Neher Bad (AT 006137).

Although the Malasorti shower head arrangement does not include a shower handset, as claimed, attention is directed to the Neher Bad reference which discloses an analogous shower head arrangement which further includes a shower handset 3-5. Therefore, in consideration of Neher Bad, it would have been obvious to one of ordinary skill in the shower head arrangement art to associate a shower handset with the Malasorti shower head arrangement in order to facilitate showering.

12. Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malasorti and Keramische Werke (DE 20211780).

Although the Malasorti shower head arrangement does not include side shower heads, as claimed, attention is directed to the Keramische Werke reference which discloses an analogous shower head arrangement which further includes side shower

Art Unit: 3751

heads 10. Therefore, in consideration of Keramische Werke, it would have been obvious to one of ordinary skill in the shower head arrangement art to associate side shower heads with the Malasorti shower head arrangement in order to facilitate showering.

13. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

14. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

/Robert M. Fetsuga/
Robert M. Fetsuga
Primary Examiner
Art Unit 3751